

# **Crash Investigation for “1<sup>st</sup> Responders” & “Safety Professionals”**



**Tommy Pollard,**

**Corporate Director Fleet Safety, Perdue Farms.**

**Responsible for commercial and non-commercial fleet safety processes.**

**Perdue employs about 750 commercial and about 400 non-commercial drivers, driving 54 MML miles annually.**

**Tommy holds professional certifications including;**

**Certified Transportation Professional, (CTP)**

**Certified Director of Safety, (CDS)**

**Certified Driver Trainer, (CDT)**

**Certified “Operation Lifesaver” Volunteer**

**Tommy serves on the ASSE Transportation Practice Specialty Advisory Committee and NPTC National Advisory Board and Safety Committee.**

**Tommy represents Perdue as a transportation safety professional with the American Society of Safety Professionals, National Private Truck Council and US Poultry & Egg Assn.**

# Crash Investigation for “1<sup>st</sup> Responders” & “Safety Professionals”

Presented By;



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Updated August 8, 2018

Tommy Pollard CTP, CDS, CDT

**There are two foundations on which a systematic crash program rest:**

**Crashes arise from specific causes**

**These causes can be identified and eliminated**

**Our job is to:**

**Prevent recurrence by determining causes**

**Protect against unwarranted or excessive financial liability**

**Provide an adequate basis for driver discipline or remedial training**



**The role of the investigator is to collect & preserve evidence.**  
**(Don't get tied up in determining cause before you gather your information.)**



# Crash investigation tools, equipment & supplies include:

- Your business card, Information for media contacts
- Photo Equipment (Camera)
- Plenty of film (additional digital card)
- Measuring tape & wheel
- Clip board
- Flash lights (2ea)
- Safety vest (Class III)
- Bump cap
- Latex gloves
- Ty-vex suit w/boots (Bio Hazards)
- Foul weather gear
- Writing instruments
- Pavement markers (Large chalk or crayon)
- Hammer
- Concrete nails
- Warning triangles
- Spill response kit
- Crash EAP (Blank from)
- Crash emergency contact list
- Paper, Forms & Reports
- Plenty of additional batteries (Camera and Flashlight)

## What's In the Bag

**Before you move out  
“Be Prepared”**

**Never jeopardize your safety.  
“Wear your PPE”**

**Class III Safety Vest Required  
ANSI / ISEA 107**

**Respect Law Enforcement.  
“It’s their roadway”**

# Responding & Investigating

For the Safety  
Supervisor  
First Responder



# **Before You Move Out**

- **Be Prepared (Response kit in order?)**
  - Have a plan
    - Who will respond?
    - Who will recover the vehicles?
    - Who will clean up the site?
    - Where will you take the damage / spoilage?
    - What resources will you need, (trucks, lifts, clean up tools, drivers, labor, etc.)
- **When the call comes in**
  - Begin to gather information (use a checklist, see EAP)
    - How serious is the accident? This can change rapidly.
  - Begin the notification process. (Notify who you need, when you need to.)
    - Who is available, call them and put them on alert.
    - Who will be your support back at the terminal once you move out?
  - Start your timeline; calls, actions, etc.
  - Get organized. (Stay calm and in control)

**Be ready, Be focused and expect the unexpected.**

# **At The Scene**

- **Step back, get the big picture, don't go directly to task**
  - Check for the unusual , power lines down, dangerous debris, accessibility ditches ingress / egress, recovery units w/associates in harms way, cleanup crew PPE,
  - Environmental support needed?
  - Utilities, Railroad, Aviation, Hazardous Materials Spill,
- **Secure the scene**
- **Determine the level of support you are going to need. (Review Crash EAP)**
- **Find law enforcement**
  - Introduce yourself and begin two way communication
  - Who is the investigating officer
  - Is there injured and if so, where did they take them.
  - Do we know if our driver will be cited? (This could lead to a required post accident test)
  - DO they need anything from us.
- **Find and secure the driver**
  - Remove as soon as possible for post accident testing
  - Reports need to be filled out! (This is a good way to get the driver out of the scene.
- **Find out who in leading recovery, cleanup, on-scene management, etc who has been notified and who needs to be**
- **Walk the scene, remember, take notes or mark the AOIs, RPs, roadway markings, debris fields, direction trajectories, etc. you will come back to these points**
- **Take camera with you, photo anything that will move quickly.**

# Elements of a Crash

## Human, Vehicle & Environment

- Human

- Drivers & Passengers
  - Identification & Contact information (usually from the driver information exchange)
  - Injuries
  - **Driver condition**
- Witnesses
  - Identification & Contact Information (most will not want to give statements at the scene.)
  - Relationship to drivers & passengers (are they related to people involved in the crash)
  - Where were they when the crash happened
  - What did they see
- Responders
  - Fire, EMS, Law Enforcement, DOT, Recovery, News media
  - Who got there first

## ● Vehicle

- Final resting points
- Type, year & model
- Damage , direct, indirect & undamaged
- Mechanical condition
- Loading condition
- Interior condition, debris, paraphernalia, etc.
- Was the driver wearing a seatbelt

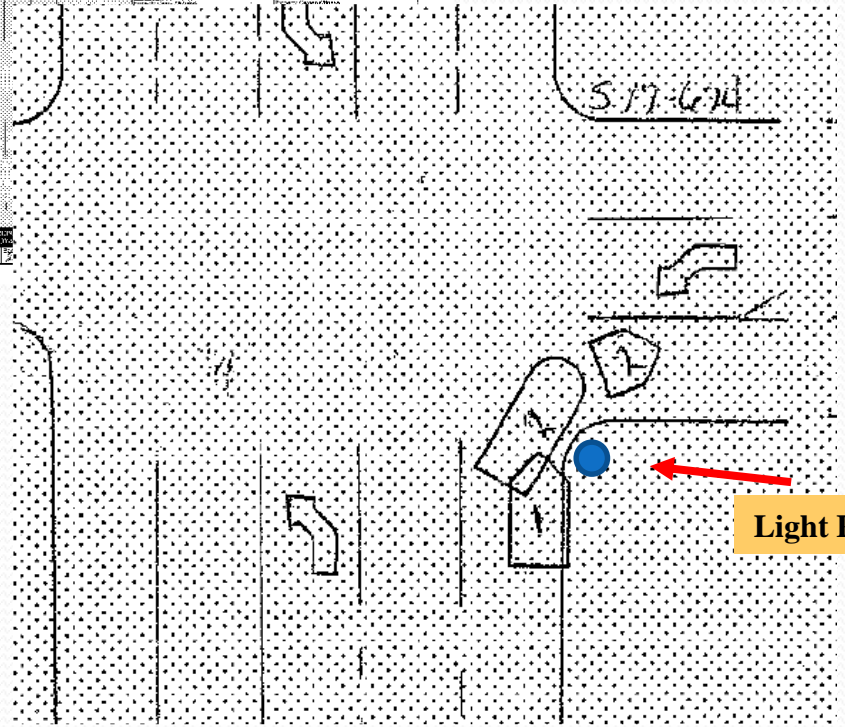
## ● Environment

- Time of day
- Where the crash occurred; city, rural, near town etc.
- Traffic patterns, conditions, overtaking vehicles etc.
- Weather, visibility, lighting & road surface conditions
- Roadway type, condition and geometry
- Identifiable road hazards
- Physical evidence, skids, scrubs, gouges, debris, etc.



**Right Front Tire Gouge**

## Collision Scrub

[illegible]

## Light Pole

# Documenting & Documents

- **Stick to the facts**, what you know and can support with facts or physical evidence.  
(Do not make or state your unsupported opinions)
  - Time of day
  - Atmospheric conditions
  - Direction of travel, ie:(Southbound on I95)
  - Right side front tire damaged
  - Transfer scrub between trailer and object struck
  - Did not stop at stop completely
  - Took eyes off the road



**The responsibility of the investigator is to collect & preserve evidence.**  
**Don't get tied up in determining cause before you gather your information.**



**Stick to recording the facts.**  
**Don't verbalize or record conclusions based on an unsupported opinion.**

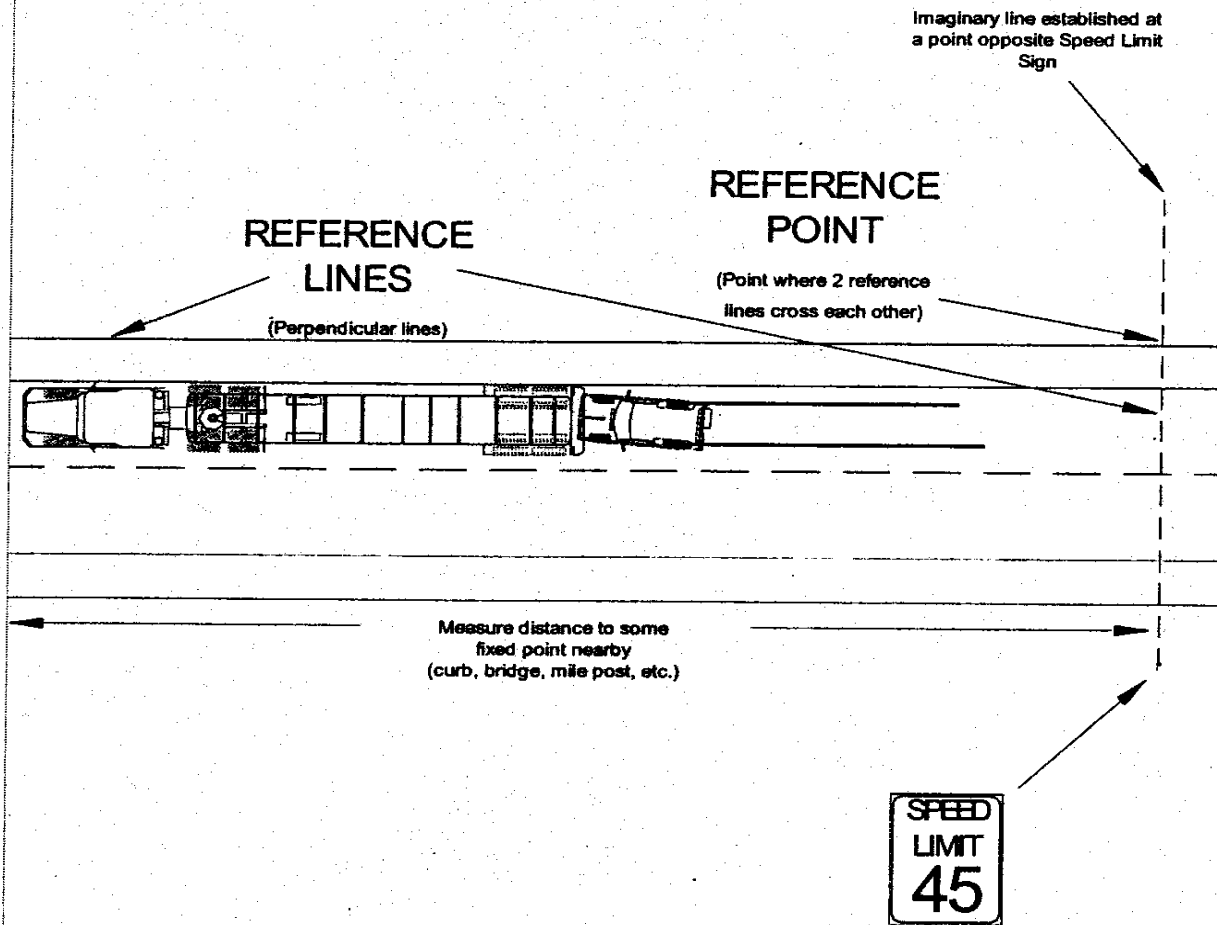
- **Secure “All” documents**, statements, reports, pictures, etc. no matter how minor they appear. Pictures, even bad ones sometimes can have the missing puzzle piece.
- **Get the police report** and send to Fleet Safety. Other items include;
  - Driver information exchange,
  - USDOT Vehicle Examination Report, any citations issued,
  - USDOT number of other truck
  - Did the other truck receive an USDOT Vehicle Examination report?
- **Media releases**, photographs, statements, etc.
  - Note: Any photographs taken by responding agencies. (Document agency).
  - Note any traffic cameras, property monitoring (private), etc. in the vicinity.

<http://www.georgetown77.com/gallery.cfm?id=862>

<..\Training Data\New folder\Picture1.jpg>

# **Mapping & Measuring:**

- Walk the scene and identify points to be measured by marking the pavement with chalk.
- Attempt to identify (AOI) Areas of Impact, (AOI-1, AOI-2, etc.) Mark them with chalk, flags, etc.
- Walk completely through the site from the first known evidence transfer to the final rest of each vehicle.
- Good Reference Points can be taken from sign posts, guardrail structure, telephone pole (has serial #), light poles, curbs, etc.
- Basic Concept; review next (2) slides.

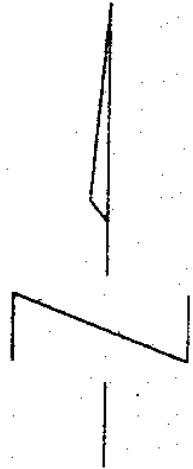


Establish a LINE TO measure from

- ① RP = Fixed object
- ② RP = 2nd point of Reference

REQUIRES 2 = RP

In the above example, an imaginary line was established across the roadway at a point opposite a speed limit sign. It is imperative that the established reference line be located with respect to some other, permanent fixture (a bridge structure, a mile post, an intersecting street, etc.)



	DESCRIPTION	N - S	E - W
RP	westbound road edge, end of guard rail	0.0 S	0.0 E
A	westbound fog line	8.0 S	0.0 E
B	center line	20.0 S	0.0 E
C	eastbound fog line	32.0 S	0.0 E
D	eastbound shoulder edge	40.0 S	0.0 E
E	veh 1 LR start skid	24.5 S	8.5 W
F	veh 1 RR start skid	30.1 S	7.3 W
G	veh 1 RR rest	22.5 S	80.6 E
H	veh 1 RF rest	20.4 S	89.0 E
I	veh 1 LR rest	17.5 S	80.5 E
J	veh 1 LF rest	15.5 S	88.9 E
K	veh 2 LF rest	16.8 S	91.2 E
L	veh 2 LR rest	16.9 S	100.6 E
M	veh 2 RF rest	11.9 S	91.3 E
N	veh 2 RR rest	12.0 S	100.9 E

Collision Analysis and Traffic Accident Reconstruction  
4891 INDEPENDENCE STREET SUITE 140 • WHEAT RIDGE, COLORADO 80033 • (303) 403-9045 • FAX (303) 403-9401

[illegible]

# Considerations

## Roadway Geometry

- The width of the; roads, lanes, shoulders, ditch, etc.
- Intersection geometry.
- Length of lane delineators and distance between them (especially helpful in interpreting photos)
- Distance between roadway reflectors
- Distances from roadway markings to fixed objects,  
(Sign posts, guardrail, telephone pole, curb, etc.)

## Evidence transfers !!!! (Are physical evidence)

- The skid marks & distances vehicles traveled before and after impact,
  - there may be multiple areas of impact.
- Overall distance of 1<sup>st</sup> known evidence transfer to final rest of all vehicles.
- Gouges in the pavement (place vehicles at a known location and position)
- Length of furrows on unpaved surfaces
- Paint scuffs, material left from grinding transfers (usually metal of some sort, sometimes rubber)
- Height of alleged areas of impact between vehicles or objects.

(Explain Cofield complaint / truck strike building)

## Environmental Factors

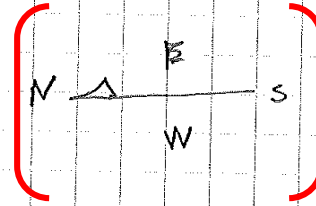
- Approx. height of the trees, shrubs, objects, signs and placement of them .
- The 1<sup>st</sup> possible point of perception of all drivers involved
- Lighting, artificial, natural, (glare, dusk , dawn, dark, etc.) Note the time of day and correlate to sunrise / sunset.

# Field Sketching

The severity of the crash will determine the comprehensiveness of the field sketch.

- The use of photos as in the following case files will serve well in most cases.
- With good data collection you will be able to reproduce good sketches.
- When severe crashes occur especially involving 3<sup>rd</sup> parties more detailed sketches may be needed.
  - Use permanent (RP) reference points
  - Use (AOI ) for areas of impact
  - Make an organized detailed legible notes page
  - Include in notes section specifics such as; pavement types, conditions, temporary evidence etc.

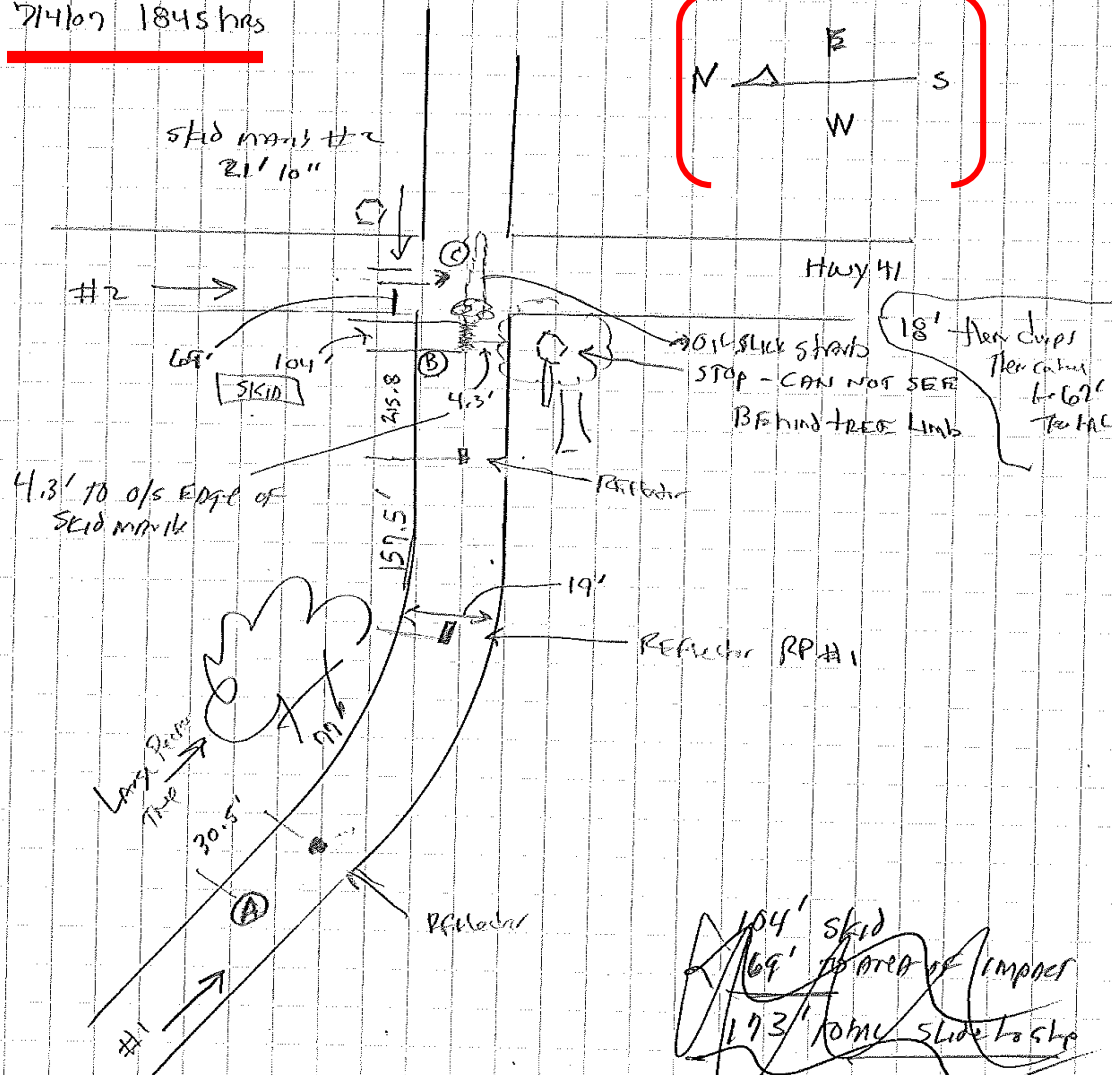
ANDON BULKHEAD  
7/4/07 1845 hrs



# Mapping

# Accident Reconstruction Engineers may use your map.

- **Date**
- **Time**
- **Compass**
- **Measurements**
- **AOI / POI**
- **Ledger explanation**

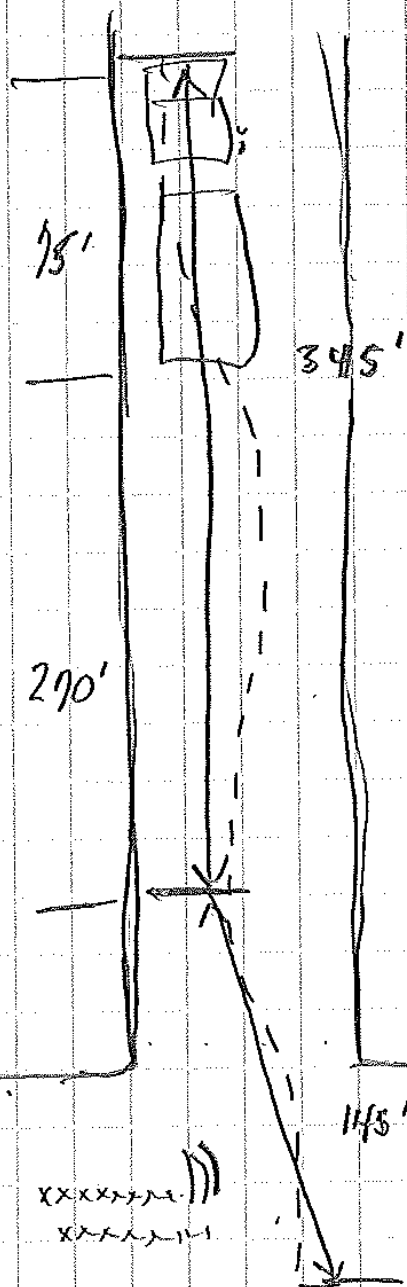


1st Possible Point of Rejection #1.  
BEGINNING OF SKID  
AREA OF IMPACT  
END OF SKID IS END OF IMPACT '69'

104' skid  
169' to area of impact  
173' to the slide last  
560 ft or more

Estimated speed of  
#1 = 35.57 mph

GPS track = 61 MPH



ON EMER BRIDGE JACK up  
⊕ FWD axle

TRAILER fully LOADED

visible skid mark

145'

131 - 24' (+) HARD then skidding

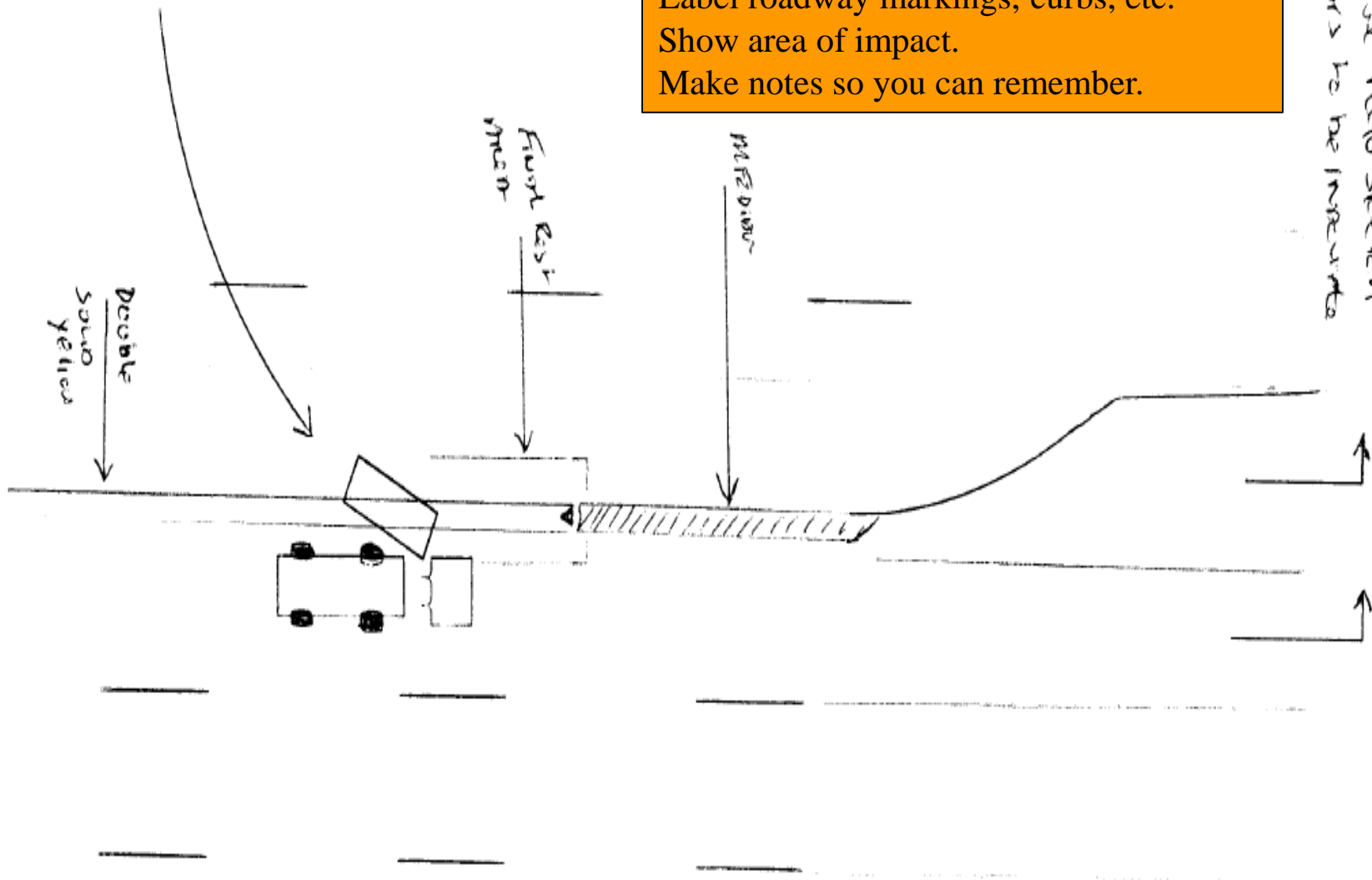
145' (+)

XXXXXXXXXX

XXXXXXXXXX

- ⊗ Per this interview with Chandler Gault's wife
- ⊗ Law Enforcement did NOT interview our driver.
- ⊗ Point Report appears to be inaccurate
- ⊗ Police field sketch appears to be inaccurate

**Simple drawing , keep it easy to read;  
Take your time.  
Label roadway markings, curbs, etc.  
Show area of impact.  
Make notes so you can remember.**



**Your drawing may be used to rebut police reports.**

# Photographing a Crash Scene



# Physical Evidence

**It is important to visit the accident scene promptly before physical evidence is removed or destroyed in order to document it.**

**One of the best and quickest ways to preserve physical evidence is to photograph it.**

**Vehicles:** (Get cleared away fast)

**Debris:** (Gets swept away fast) establishes area, not the exact point of impact direction of travel and position in some cases.

**Tire Marks:** (usually will remain for a while) Skidding, heated rubber transfers, etc. in most cases you can re-visit in the daylight and / or during low volume traffic times.

**Gouges:** (Stay for a long time) marks made by the vehicle under stress and forces of impact.

**Collision Scrubs:** (Stay for a long time) marks made by vehicles colliding with each other, trees, guardrails, poles, curbs, buildings, etc.

**Foliage:** line of sight. (Usually have some time, don't delay too much.) Generally if it is worth preserving it is valuable evidence.

# Photographing the accident scene

- Begin by identifying critical points of reference and mark them with pavement and / or ground markers. Keep these points of reference within the view finder as you photograph the scene.
- 1<sup>st</sup>, Photograph evidence that will quickly be removed or destroyed
  - When taking photos, keep possible RPs in the view finder. This way engineers can re-construct if needed.
- Photographs should be at either right angles to or parallel with the roadway.
  - This will assist the engineers in the event of re-construction
  - Step back, get the big picture, then move in and get the close-up
- Make a picture log & file

## What are you going to photograph?

- Vehicle positions
- Footprints that will be destroyed by recovery and cleanup equipment
- Damage to the vehicles, license tags and (interiors-if needed to preserve evidence.)
- Debris fields
- Any posted traffic control signs at and leading up to the intersection / scene.
- The approach path of all vehicles involved (about 1500 ft back to impact)
- A view in all (4) directions looking back from the area of impact.
- Tire markings, evidence transfers, vehicle footprints on the shoulders
- Collision points on buildings, guardrails, trees, poles, signs, curbs, walls, objects, etc.
- Property damage
- Foliage interference

File or Case # \_\_\_\_\_ Subject of Photos \_\_\_\_\_ Roll # \_\_\_\_\_  
 Date of Acc. \_\_\_\_\_ Time of Acc. \_\_\_\_\_ Location \_\_\_\_\_  
 Date of Photos \_\_\_\_\_ Time of Photos \_\_\_\_\_ Taken By \_\_\_\_\_  
 Camera Info. \_\_\_\_\_ Film Used \_\_\_\_\_ Flash (Y/N) \_\_\_\_\_

	DIRECTION	DESCRIPTION OF PHOTO
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**Yaw mark, static traction smear**



**Dynamic breaking & static counter-steer**

**Wheel lock up**



**Trailer tandems smear at point of rollover**

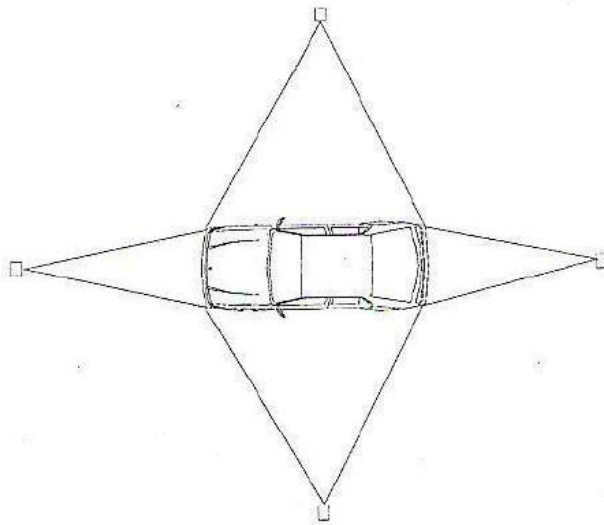


**Roadway gouging from unit sliding**

# Photographing the vehicle

The standard method of “documenting” any vehicle involves taking four photographs.

- Each taken at a right angle to one of the sides. This will permit damaged areas to be defined precisely as to size and depth.
- Identification by license tag should appear in at least one of the photos.
- When photographing damage, first take a wide angle view then zoom in on the area of focus.
- (Review next slide)



← Right angle to the  
Vehicle

## V. Photographic Techniques in the Field

### A. Vehicles

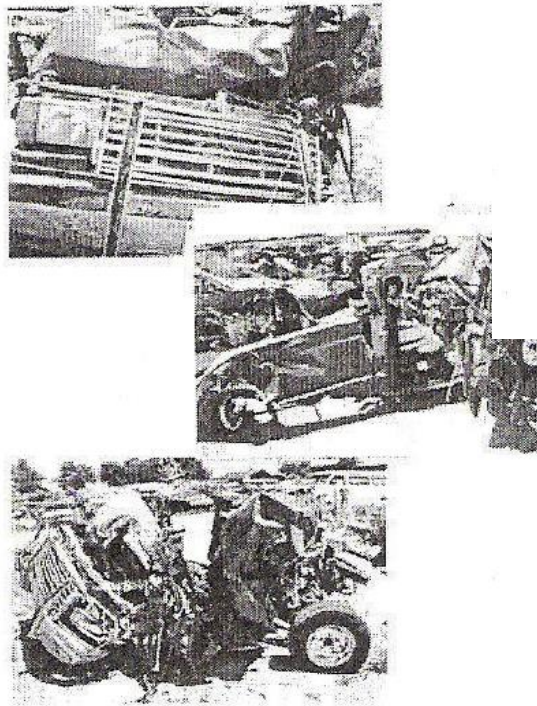
Vehicles should be photographed to document areas of physical damage from the event, as well as documenting areas that were **not** damaged.

1. Basic four photographs
2. Perimeter photographs taken of exterior of vehicle
3. Photographs of safety related components (such as tires, lamps, mirrors, safety inspection labels, seat belts, air bags)
4. Photographs of interior compartment
5. Photographs of safety components within interior of vehicle

} Vehicle

The "basic 4" photographs of a vehicle include:

1. Front
2. Left Side
3. Right Side
4. Rear



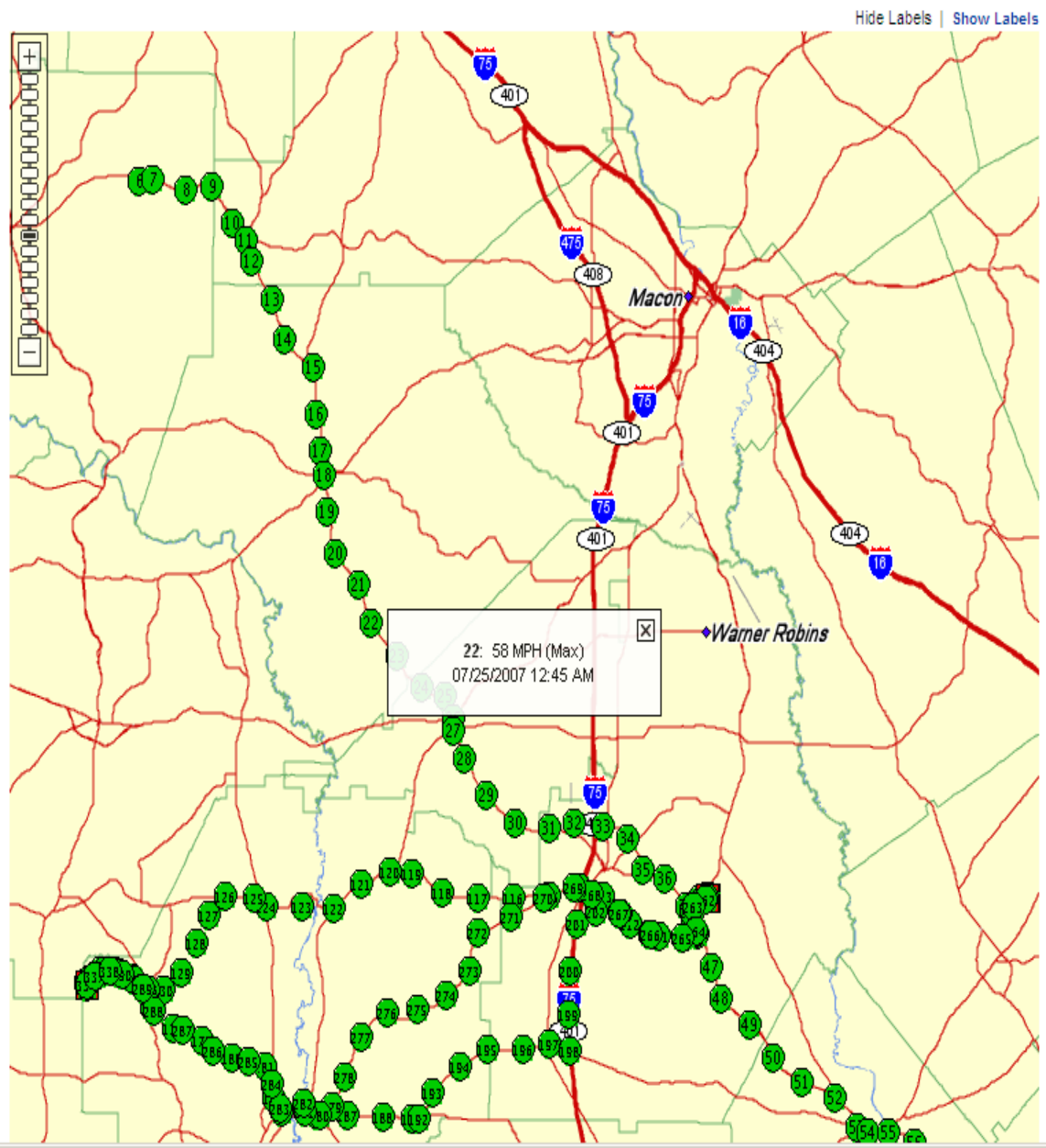
Remember to  
Photograph Scene -  
Approach, others etc.

## **Technology Data / Evidence**

- **OBD (On Board Diagnostics)**
- **ECM (Electronic Control Module)**
- **OBDR (On Board Data Recording)**
- **GPS (Global Positioning)**
- **Video (Truck Mounted Event Recorder, Camera)**
- **VORAD (Vehicle On Board Radar Detection)**

- Track vehicle
- Stop History
- Driving Directions
- Vehicle Performance
- Alerts
- Diagnostics
- Service History
- Recalls
- Vehicle Profile
- Return Home

FAST FACTS	
Vehicle Label	UNIT 7243
Account Name	Jim Herman
Vehicle	2005 FREIGHTLINER CL112
VIN	1FUJF0DE95LN79559
License	517F44 MD
Odometer	220344 miles
MIL Light	
Alerts	0
Service	0
Recalls	0
Last Diagnostic Update	07/26/07 08:39 AM
Last Location Update	07/26/07 09:18 AM



Activity Detail Report - Windows Internet Explorer

http://www.networkcar.com/networkcar/ted/filtactivityreport?groupId=8&VehicleId=53340&startStr=07%2F24%2F2007&starthour=12&startminute=00&finhour=00&finminute=

Google

Activity Detail Report

Page Tools

Activity Detail Report

Vehicle Label	VIN	Date	Ignition Status	Address	City	State	Zip	County	Speed (MPH)
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:13 PM	On	Driveway	PERRY	GA	31069	HOUSTON Co.	N/A
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:14 PM	On	Driveway	PERRY	GA	31069	HOUSTON Co.	6
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:16 PM	On	Driveway	PERRY	GA	31069	HOUSTON Co.	9
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:18 PM	On	Driveway	PERRY	GA	31069	HOUSTON Co.	N/A
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:20 PM	On	Driveway	PERRY	GA	31069	HOUSTON Co.	N/A
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:22 PM	On	Driveway	PERRY	GA	31069	HOUSTON Co.	N/A
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:24 PM	On	Driveway	PERRY	GA	31069	HOUSTON Co.	7
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:27 PM	On	Driveway	PERRY	GA	31069	HOUSTON Co.	4
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:29 PM	On	Driveway	PERRY	GA	31069	HOUSTON Co.	N/A
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:31 PM	On	313 Ae Harris Rd	PERRY	GA	31069	HOUSTON Co.	37
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:33 PM	On	2419 US-341US Highway 341 SIGA-11	PERRY	GA	31069	HOUSTON Co.	52
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:35 PM	On	2301 US-341US Highway 341 SIGA-11	PERRY	GA	31069	HOUSTON Co.	57
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:37 PM	On	GA-11\Perry Pkwy\N Perry Pkwy	PERRY	GA	31069	HOUSTON Co.	57
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:39 PM	On	GA-11\Perry Pkwy\N Perry Pkwy	PERRY	GA	31069	HOUSTON Co.	57
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:41 PM	On	GA-11\Perry Pkwy\N Perry Pkwy	PERRY	GA	31069	HOUSTON Co.	57
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:43 PM	On	750 Perry Pkwy\N Perry Pkwy	PERRY	GA	31069	HOUSTON Co.	53
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:45 PM	On	353 Perry Pkwy\W Perry Pkwy	PERRY	GA	31069	HOUSTON Co.	57
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:47 PM	On	2364 US-341US Highway 341 NGA-7	PERRY	GA	31069	HOUSTON Co.	58
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:49 PM	On	10510 US-341US Highway 341 SIGA-7	FORT VALLEY	GA	31030	PEACH Co.	58
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:51 PM	On	9575 US-341US Highway 341 SIGA-7	FORT VALLEY	GA	31030	PEACH Co.	58
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:53 PM	On	9260 US-341US Highway 341 SIGA-7	FORT VALLEY	GA	31030	PEACH Co.	57
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:55 PM	On	319 US-341\Martin Luther King Jr Dr\GA-7	FORT VALLEY	GA	31030	PEACH Co.	57
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:57 PM	On	355 US-341US Highway 341\Commercial Hts\GA-7\GA-96	FORT VALLEY	GA	31030	PEACH Co.	33
Unit 7239	1FUJF0DE15LN79555	07/24/07 05:59 PM	On	656 US-341\GA-7	FORT VALLEY	GA	31030	PEACH Co.	45
Unit 7239	1FUJF0DE15LN79555	07/24/07 06:01 PM	On	4750 US-341US Highway 341\GA-7	FORT VALLEY	GA	31030	PEACH Co.	53
Unit 7239	1FUJF0DE15LN79555	07/24/07 06:03 PM	On	10169 US-341US Highway 341\GA-7\RR 2	FORT VALLEY	GA	31030	PEACH Co.	57
Unit 7239	1FUJF0DE15LN79555	07/24/07 06:05 PM	On	8916 US-341\GA-7	ZENITH	GA	31050	CRAWFORD Co.	57
Unit 7239	1FUJF0DE15LN79555	07/24/07 06:07 PM	On	7123 US-341\GA-7	ZENITH	GA	31050	CRAWFORD Co.	58
Unit 7239	1FUJF0DE15LN79555	07/24/07 06:09 PM	On	US-341\GA-7	ZENITH	GA	31050	CRAWFORD Co.	64

Done

Internet100%

Start

Perry Meet.ppt

HindSight 20/20 - E...

Perry Meeting

Perry Project

Reports: Enter Val...

Activity Detail R...

8:07 PM

# Video Evidence



**Powerful**

**Believable**

**Unbiased**



**A picture tells a thousand words.**

**A video tells a story.**

# **Safeguarding Video Evidence**



- ✓ **Who will have access to the video events**
- ✓ **Who is authorized to download videos!**
- ✓ **Have pre-established retention guidelines.**
- ✓ **Develop and have ready a non-disclosure agreement**

# Video Evidence

**The phantom vehicle;**

[..\New folder\001 V18-210 ETHL08724.dce](#)

[..\New folder\002 V18-210 2nd Clip ETHL08728.dce](#)

**The mirror swap;**

[..\New folder\004 ETNL06486.dce](#)

**Your driver did not cause this?**

[..\New folder\008 V19-151 Drivecam Event ETQZ58683.dce](#)

[..\New folder\008a V19-151 - Clip 2 ETQZ58687.dce](#)

# Post Accident Management Actions

- **Safeguard the vehicle.**
  - Have towed to Company property.
  - Secure it, including the trailer.
  - Do not begin repairs until cleared to do so.
  - Do not download ECM until cleared to do so.
- **Safeguard the driver associate.**
  - If the Company driver is injured, have a member of management attend to the driver.
- **Do not over-communicate.**
  - Restrict emails, etc. Stick to competing and sending the required forms, data, photographs, etc. Anything we put in writing we will have to explain, (it is discoverable).
- **Whenever legal becomes involved,**
  - Stick to your process although all documentation and interviewing should be done at the advice of counsel
  - Have this spelled out in a written SOP / Policy

# Post Accident Recording



## DOT Requirements

### **FMCSR §390.15**

(b) Motor carriers must maintain an accident register for 3 years after the date of each accident. Information placed in the accident register must contain at least the following:

(1) A list of accidents as defined at §390.5

(i) Date of accident.

(ii) City or town, and the State where the accident occurred.

(iii) Driver Name.

(iv) Number of injuries.

(v) Number of fatalities.

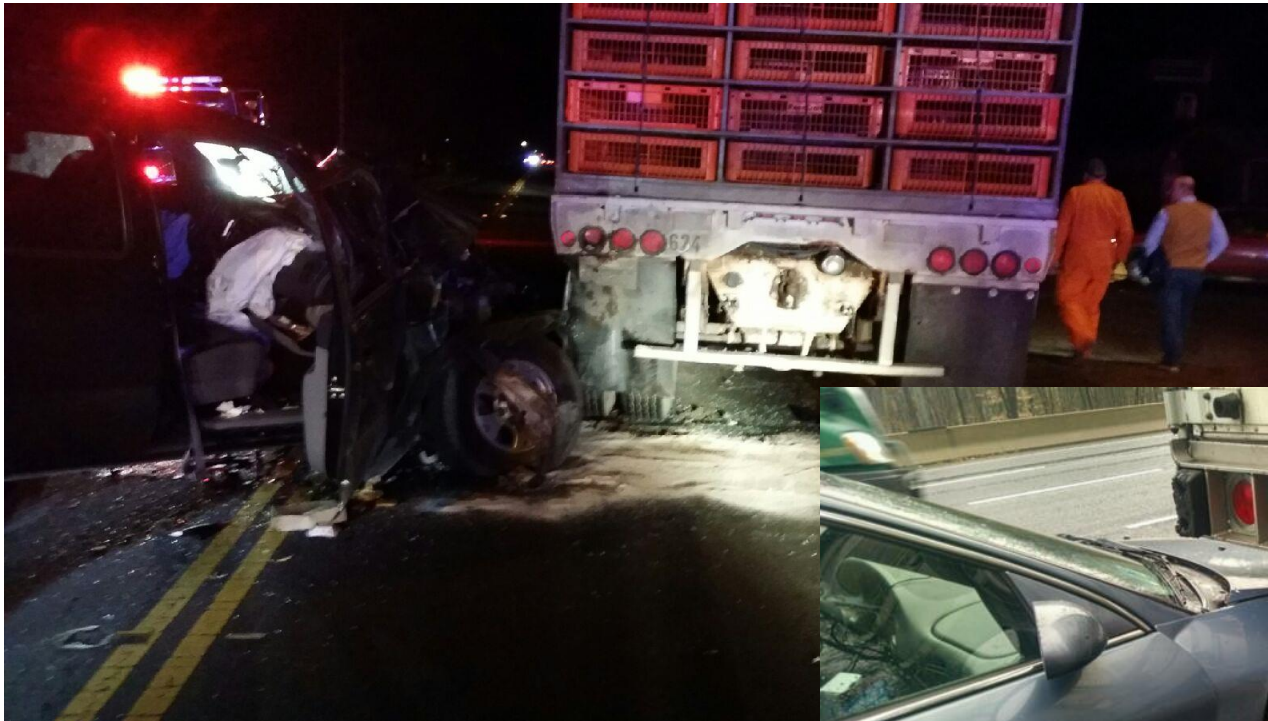
(vi) Whether hazardous materials, other than fuel spilled.

(2) Copies of all accident reports required by State



# Fleet Safety

## A Look Into MVA Litigation



**Tommy Pollard CTP, CDS, CDT**

# Criminal, Civil , Punitive actions

- **Criminal Acts**

- In criminal law, a guilty defendant is punished by either (1) incarceration in a jail or prison, (2) fine paid to the government, etc.

- **Civil cases** a contest to adjudicate financial responsibility.

- Determination of financial responsibility to the accident in whole or part of.
- A defendant in civil litigation is not incarcerated. In general, a losing defendant in civil litigation only reimburses the plaintiff for losses caused by the defendant's behavior
- In a civil case there is a possibility of punitive damages, *if* the defendant's conduct is egregious and had *either* (1) a malicious intent (a desire to cause harm), (2) gross negligence (a conscious indifference), *or* (3) a willful disregard for the rights of others.

# • Punitive Cases

- A contest to determine if punishment is due, usually for negligence on behalf of the responsible party.
- Findings usually develop from unsatisfactory management controls.
  - Negligent entrustment, willful acts, gross negligence, etc.
- The use of punitive damages makes a public example of the defendant and supposedly deters future wrongful conduct by others

## **Punitive Examples**

- **Lip Service to policy?**
- **Ignoring Avoidance Technologies ?**
  - ✓ Enforce policies / driver behavior

## **Entrustment Examples**

- **Is your driver fit for duty?**
  - ✓ DQ File complete and up to date
  - ✓ DOT Medical Card current
  - ✓ License current
  - ✓ Compliance with Hours of Service rules
  - ✓ Vehicle readiness / maintenance



# **Important Basics**




**Negligent Entrustment Is Based on  
What You Should Have Known or  
should have done**

- **Apply fair and consistent execution of policies, “Every day”.**
- **Have written policy or standard? You better be supporting it with documented action and accountability.**
- **Administer accountabilities as prescribed. (A day off without pay, means just that. Don’t get caught angling for the sake of production.)**
- **During investigations, don’t formulate unsupported opinions. (Stick to the facts)**
- **In general conversations, don’t indicate or say things like, “Because you governed the speed of the truck it made it unsafe”. You may be called to support your statement.**

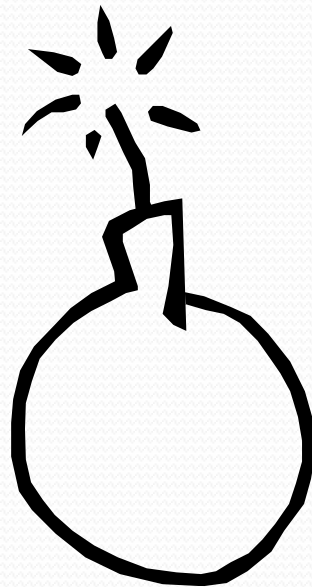
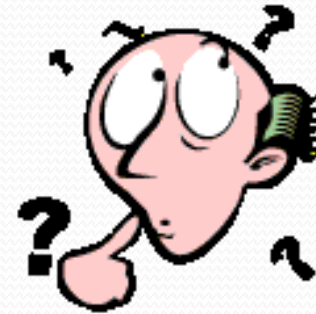
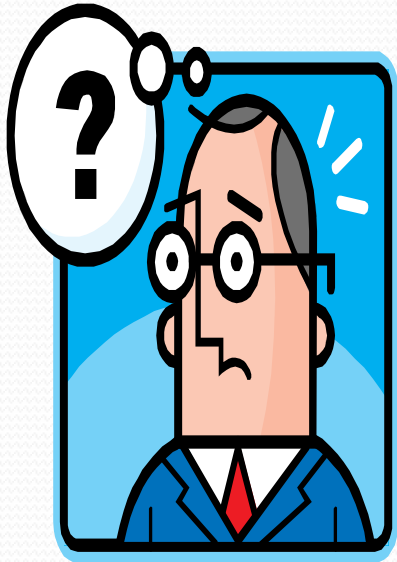
# Discovery and Depositions

- **During Discovery** plaintiffs and defendants learn about each other's cases. This includes;
  - depositions, written questions (interrogatories), requests for documents, subpoenas, etc.
- **Documents usually requested immediately during discovery;**
  - Driver DQ File
  - Driver personnel file
  - Accident investigation file
  - Hours of Service logs
  - Secure the vehicle
  - Vehicle inspection records
  - Vehicle weight records

- 
- List all associates at the scene
  - Accident photos
  - All Fleet Safety policies
  - Relevant training documents
  - Dispatch records
  - Vehicle “black box” download



# Questions,,, &@\$&@\$Q@&^



**Thank you for your time.**

# Credits & Resource Materials

- ▶ **NATMI** (North American Transportation Management Institute)
- ▶ **Northwestern University** (Traffic Template & Coefficient Tables)
- ▶ **Dr. Paul Olsen** (Perception Reaction Times)
- ▶ **MARSH Risk Consulting** (Stopping Distance Tables)
- ▶ **LYTX “Drive Cam”** (Video Event Recording)
- ▶ **Network Fleet** (GPS Tracking)
- ▶ **Accident Reconstruction Services Inc.** (Field Sketching and Notes)
- ▶ **ANSI / ISEA 107**
- ▶ **ASSE** (Fleet Safety for Safety Professionals and Fleet Managers, 2015)
- ▶ **National Safety Council** (A Guide to Determine Motor Vehicle Collision Preventability)
- ▶ **FMCSA** (Federal Motor Carrier Administration)
- ▶ **Company Farms** (Presented by Tommy Pollard, *CTP, CDS, CDT*)
  - ▶ - O 864-982-7629, C 843-632-0690